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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,936	04/14/2004	Vahid Saadat	021496-000700US	7289
20350	7590	09/20/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			KASZTEJNA, MATTHEW JOHN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/824,936

Applicant(s)

SAADAT ET AL.

Examiner

Matthew J. Kasztejna

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/18/04, 5/20/05, 8/23/5
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10-40, 42-50 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,277,064 to Yoon.

**In regards to claims 1 and 44-46**, Yoon discloses an apparatus for obtaining endoluminal access, the apparatus comprising: an elongate body 12 having a working axis and a distal region 15, the elongate body configured for insertion within a body lumen; and at least one articulating element 16 disposed near or at the distal region of the elongate body, wherein the articulating element is configured to articulate off-axis from the working axis of the elongate body (see Fig. 1a).

**In regards to claims 2, 10-14, 19, 25, 29-30 and 47** Yoon discloses an apparatus for obtaining endoluminal access, wherein the articulating element comprises a visualization element configured to image within a body lumen (see Col. 4, Line 54 – Col. 5, Line 9).

**In regards to claim 3**, Yoon discloses an apparatus for obtaining endoluminal access, wherein the articulating element comprises the distal region of a lumen extending through the elongate body (see Fig. 1).

**In regards to claim 4,** Yoon discloses an apparatus for obtaining endoluminal access, wherein the apparatus has a delivery configuration in which the articulating element is aligned with or adjacent to the working axis of the elongate body, and a deployed configuration wherein the articulating element is articulated off-axis from the working axis of the elongate body (see Col. 7, Lines 30-40).

**In regards to claim 5,** Yoon discloses an apparatus for obtaining endoluminal access, wherein the articulating element further comprises at least two articulating elements (see Col. 6, Lines 1-4).

**In regards to claim 6-7,** Yoon discloses an apparatus for obtaining endoluminal access, wherein the at least two articulating elements are configured for independent off-axis articulation or coordinated off-axis articulation (see Col. 7, Lines 25-50).

**In regards to claim 15,** Yoon discloses an apparatus for obtaining endoluminal access, wherein the elongate body further defines a lumen 14a (see Fig. 1)

**In regards to claims 16-18 and 20,** Yoon discloses an apparatus for obtaining endoluminal access, wherein off-axis articulation of the articulating element is configured to expose a distal opening of the lumen (see Fig. 7a and Col. 7, Lines 32-39).

**In regards to claim 21,** Yoon discloses an apparatus for obtaining endoluminal access further comprising a light source configured to illuminate the interior of the body lumen and facilitate visualization with the visualization element (see Col. 4, Line 63 – Col. 5 Line 8).

**In regards to claim 22,** Yoon discloses an apparatus for obtaining endoluminal access wherein the elongate body further defines multiple lumens (see Fig. 2).

**In regards to claim 23,** Yoon discloses an apparatus for obtaining endoluminal access further comprising a housing configured to couple the articulating element to the elongate body and to facilitate articulation of the articulating element (see Fig. 1b).

**In regards to claim 24,** Yoon discloses an apparatus for obtaining endoluminal access, wherein the housing comprises at least one linkage 186 for articulating the articulating element (see Col. 7, Lines 51-67).

**In regards to claims 26-28 and 48-50** Yoon discloses an apparatus for obtaining endoluminal access, wherein the elongate body is steerable, rigidizable and has a steerable shaft (see Figs 7a-d and Col. 7, Lines 7-50).

**In regards to claims 31-43,** the apparatus of Yoon is considered to be inherently capable of performing the recited method claims

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,277,064 to Yoon in view of U.S. Patent Application Publication No. 2004/0122290 to Irion et al.

**In regards to claims 8-9 and 41**, Yoon discloses an apparatus for obtaining endoluminal access, wherein the at least two articulating elements comprise at least two visualization elements but is silent with respect to the visualization elements being configured to provide stereoscopic visualization. Irion et al teaches of an analogous endoscopic device and prior art having two imaging systems juxtaposed to cover the same image field in order to obtain a three dimensional impression of the image field (see paragraph 0006). It would have been obvious to one skilled in the art at the time the invention was made to configure the visualization elements in the apparatus of Yoon to provide stereoscopic visualization in order to provide a more detailed image of the target tissue as a three dimensional impression as taught by Irion et al. and is well known in the art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

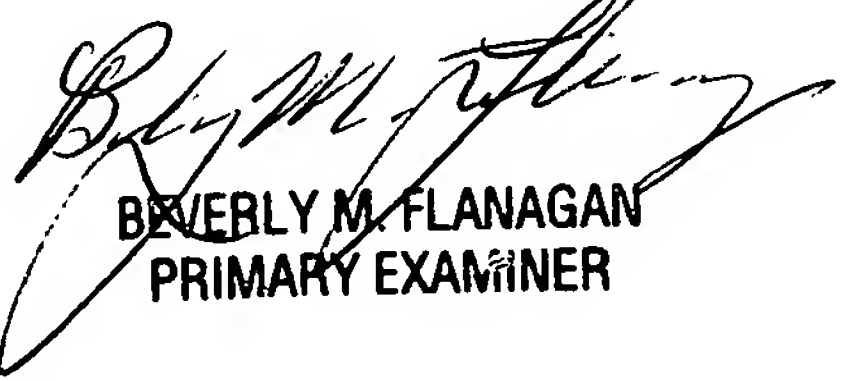
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

9/15/05

  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER